

CITY COUNCIL MINUTES
March 14, 2011
REGULAR SESSION

The Regular Session of the Auburn City Council was held in the Council Chambers, City Hall, 1225 Lincoln Way, Auburn, California on Monday, March 14, 2011 at 6:00 p.m. with Mayor Kirby presiding and City Clerk Joseph G.R. Labrie recording the minutes.

CALL TO ORDER

PLEDGE OF ALLEGIANCE

ROLL CALL:

Council Members Present: Bridget Powers, Kevin Hanley, J. M. Holmes, Keith Nesbitt, Bill Kirby

Council Members Absent: None

Staff Members Present: City Manager Robert Richardson, City Attorney Michael Colantuono, Community Development Director Will Wong, Senior Planning Reg Murray, Fire Chief Mark D'Ambrogi, Public Works Director Bernie Schroeder, Public Works Engineer Carie Huff, Administrative Services Director Andy Heath, Police Chief Valerie Harris and Police Captain John Ruffcorn.

AGENDA APPROVAL

The agenda was approved as presented by consensus of the Council.

CONSENT CALENDAR

Council Member Hanley requested item 5 be removed from the consent calendar.

1. **Consultant Agreement for the Sewer Collection System Rehabilitation Program**

By **RESOLUTION 11-33** authorize the Director of Public Works to execute the consultant agreement with NexGen Utility Management for the Sewer Collection System Rehabilitation Program

2. **Authorization to Purchase and Install a New Uninterrupted Power Supply for the Auburn Police Department**

By **RESOLUTION 11-34** authorize the City Manager or his designee to execute a purchase order with J4 Systems for the purchase and installation of a UPS at the Auburn Police Department in an amount not to exceed \$10,000.

3. **Assignment of Auburn Airport Industrial Park Ground Lease from Arthur and Sonja Armstrong to the Arthur W. Armstrong Revocable Trust and the Armstrong Revocable Trust**

By **RESOLUTION 11-35** authorize the City Manager or his designee to:

A. Approve the assignment and assumption of the land lease between the City of Auburn, Arthur and Sonja Armstrong, and Arthur W. Armstrong, trustee of the Arthur W. Armstrong Revocable Trust and Sonja C. Armstrong, trustee of the Armstrong Revocable Trust.

B. Approve for recording by the Placer County Recorder's Office Memoranda of Lease for Arthur W. Armstrong, trustee of the Arthur W. Armstrong Revocable Trust and Sonja C. Armstrong, trustee of the Armstrong Revocable Trust.

4. **Assignment of Auburn Airport Industrial Park Ground Lease from Leonard and Laurel Smith to the 2010 Smith Family Revocable Trust**

By **RESOLUTION 11-36** authorize the City Manager or his designee to approve the assignment and assumption of the land lease between the City of Auburn, Leonard and Laurel Smith and the Smith Family Trust, and authorize the execution of all related documents.

5. **Baltimore Ravine Specific Plan and Study Areas Project – Second Reading of Ordinances for a Rezone and Development Agreement – Files RE 07-1; DA-07-1**

Removed from consent calendar, see item 5a.

***** End of Consent Calendar *****

By **MOTION**, approve consent calendar consisting of items 1-4.
MOTION: Nesbitt/ Powers/ Approved 5:0

5a. **Baltimore Ravine Specific Plan and Study Areas Project – Second Reading of Ordinances for a Rezone and Development Agreement – Files RE 07-1; DA-07-1**

Council Member Hanley said he pulled this item from the consent calendar because he wanted the opportunity to vote separately on the issue.

- A. By **ORDINANCE 11-02**, hold a Second Reading, by title only, of and adopt an ordinance approving the rezone for Plan Area 1 of the BRSP as well as Study Areas 1-4 of the Baltimore Ravine Specific Plan and Study Areas Project.
- B. By **ORDINANCE 11-03**, hold a Second Reading, by title only, of and adopt an ordinance approving a Development Agreement by and between the City of Auburn and the Baltimore Ravine Investors, LLC.

MOTION: Nesbitt/ Powers/ Approved 4:1 (Hanley voted “no”)

6. **Public Comment**

Council Member Holmes asked about assignees listed in the “Fiscal Impact” on the staff report for items 3 and 4 on the consent calendar.

Andy Heath explained the staff report for item 4 listed the wrong assignees’ name.

REPORTS

7. **Presentation – Greenhouse Gas Emissions Inventory by the Sierra Business Council**

Senior Planner Reg Murray introduced Christina Prestella from the Sierra Business Council.

Christina Prestella presented an overview of the Greenhouse Gas Emissions Inventory and relevant findings (full presentation available in the City Clerk’s office).

Council Member Nesbitt confirmed that this information could be used for opportunities for future grants for further solar implementation projects.

Council Member Hanley asked about current reduction of greenhouse gas emissions in Auburn. He also asked about the agreement with Sierra Business Council to continue in this program.

Mayor Kirby asked about the "Blue Bag Program," new technologies involving LED lights and commuting numbers as to city employees.

8. **Informational Item – Medical Marijuana Dispensaries**

Council Member Nesbitt introduced Jim Henry from a medical marijuana dispensary in Colfax.

Jim Henry explained the importance of available medical marijuana dispensaries for the ill. He said the ADA recognizes the medical benefit of marijuana for ill patients. He said some of the benefits to the City are the tax benefits and job creation. He provided statistical information, a catalog and a local cannabis newspaper (copy of all available in the City Clerk's office).

Council Member Nesbitt asked about the sales tax generated. He also asked about additional surcharges that could be added to sales within the City.

City Attorney Michael Colantuono advised that an additional tax would require voter approval and a regulatory fee would have to be demonstrated on a factual basis to match regulation costs.

Council Member Hanley asked opinion on why some cities and counties are starting to restrict the number of dispensaries within their city limits.

Mayor Kirby addressed common conditions that are prescribed marijuana and the lack of standardization and FDA evaluations for medical marijuana. He said he appreciates the value of marijuana as a drug, but he also understands it's an unregulated recreational medication.

9. **City Council Committee Reports**

Council Member Powers reported that the Placer County Economic Development Board is having its annual breakfast for "Business of the Year" awards, March 31st, at Del Webb, Roseville.

Council Member Holmes reported on the Auburn State Recreation Area (ASRA). He said there is a 2.7 million dollar line item in the President's budget that is supposed to cover ASRA among a couple other programs.

Council Member Holmes reported on the Arts Commission in regards to temporary art for Central Square.

Council Member Nesbitt reported on the Economic Development Commission. He said this commission will be meeting regularly to brainstorm on business incubation and how to drive the economy.

Council Member Nesbitt reported that the Capital Corridor's JPA approved a new working plan and hopes to fund the train to Auburn.

Council Member Nesbitt also reported on the DBA and SHAAC meetings.

Council Member Hanley requested staff look at the "Bike Master Plan" to identify inexpensive ways to improve safety of the bicycle riders throughout the City.

Mayor Kirby reported that the Placer Nevada County Wastewater Authority met at a special meeting. He said due to reports not being completed, they were unable to make a recommendation to City & County regarding regional sewer.

Mayor Kirby reported that the joint meeting between Downtown Business Association and Old Town Business Association was poorly attended. He said the presentation from Auburn Bike Team excellent.

Mayor Kirby reported that the Power Breakfast held last Friday was productive. He said it focused on the Chamber's evaluation of businesses throughout the city.

PUBLIC HEARING

10. **Continued Public Hearing to Consider a Zoning Code Amendment of Section 159.019 of the Auburn Municipal Code for Medical Marijuana Dispensaries. The Proposed Amendment Provides Non-Criminal Penalties for Violation of the City's Prohibition of Medical Marijuana Dispensaries.**

Community Development Director Will Wong presented this item. He said upon advice of the City Attorney in light of recent court judgments, this amendment is before the Council. He said this is only pertaining to the penalty section; dispensaries will still be prohibited.

City Attorney Michael Colantuono read the sentence that will be added to the municipal code: "No conduct which is protected from criminal liability pursuant to the Compassionate Use Act and the Medical Marijuana Program Act shall be made criminal by this code. Such conduct that violates the requirements of this code shall be subject to non-criminal penalties only". He said this statement says if we can't make this conduct

criminal, because state law says so, we're not doing so. He said this is an obvious statement of what the law already requires.

Council Member questions followed regarding citation costs and enforcement.

Bill Prior, resident of Auburn, spoke about local hydroponics stores, regulations and testing of marijuana, and potential tax revenue.

Council Member comments followed regarding non-criminal penalties for violations and compliance with state and federal law.

The Planning Commission recommends that the City Council take the following action:

A. Introduce and hold a first reading, by title only, of an Ordinance amending Section 159.019 of the Auburn Municipal Code for Medical Marijuana Dispensaries. The Proposed Amendment Provides Non-Criminal Penalties for Violation of the City's Prohibition of Medical Marijuana Dispensaries (Attachment 1 of Exhibit A).

MOTION: Hanley/ Powers/ Approved 4:1 (Nesbitt voted "no")

Council Member Nesbitt said he would like to see the issue of Medical Marijuana Dispensaries brought back before the Council for further discussion.

COUNCIL BUSINESS

11. Palm Avenue Sidewalk and Bicycle Lane Project – Conceptual Alignments and Phase 2 of the Design

Public Works Engineer Carie Huff presented this item. She reviewed the highlights from the Palm Avenue Sidewalk and Bicycle Lane Project. She also reviewed each of the 3 options and associated costs (presentation available in City Clerk's office).

Council Member Nesbitt asked about possibility of separated sidewalks.

Public Works Director Bernie Schroeder said a separated sidewalk option was explored, but found to not be feasible. She said there is not enough right-of-way necessary for that design option.

Council Member Holmes asked about any eminent domain involved in the 3 presented options.

Bernie Schroeder said there is cooperation with the property owners and no eminent domain would be necessary.

Council Member Powers asked about the grant for this project.

Bernie Schroeder explained that a "Safe Route to School" grant was received, allowing the City to work with property and business owners in the area to provide a safe route for school children to get to and from school, in an amount of \$689,000.

Council Member Hanley asked about guard rail alternatives to a separated sidewalk to increase safety.

Carie Huff said the same safety issue came up during a meeting with the school district. She said it will be considered before final design.

Douglas Crancer, Assistant Superintendent of Auburn Union School District, thanked Bernie and Carie for meeting with him, and expressed his support of Option 1.

Richard Sanborn, resident of Auburn, spoke in favor of staff's recommendation of Option 1 and enforcement/ use of bike lanes throughout Auburn.

Council Member Nesbitt said he would like to send this item back to staff to have them look at a separated sidewalk option and have them go back to renegotiate the grant amount.

Council Member Hanley and Powers both stated their support for moving forward with Option 1.

Mayor Kirby said this is a major thoroughfare and a dangerous area. He said guardrails or some other safety measure will need to be added into the final design.

Council Member Powers asked if renegotiating the grant will put the grant funding we currently have at risk.

Bernie Schroeder assured that if a deadline or funding became at risk, she would immediately bring it back before Council.

Council Member Hanley said it is important to remember the 10% funding match that is the City's responsibility.

1. By **MOTION** select Option 1 as the preferred design, with staff to investigate either a separated sidewalk or additional safety features

and to renegotiate the grant if possible for the Palm Avenue Sidewalk and Bicycle Lane Project.

2. By **RESOLUTION 11-37** authorize the Director of Public Works to execute an amendment to the consultant agreement with Coastland Civil Engineering, Inc. for Phase 2 of engineering design services for the Palm Avenue Sidewalk and Bicycle Lane Project in an amount not to exceed \$50,081.

MOTION: Nesbitt/ Holmes/ Approved 5:0

ADJOURNMENT

Mayor Kirby adjourned the meeting, without objection, at 7:49 p.m.

William W. Kirby, M.D., Mayor

Joseph G. R. Labrie, City Clerk

CITY COUNCIL MINUTES
March 28, 2011
REGULAR SESSION

The Regular Session of the Auburn City Council was held in the Council Chambers, City Hall, 1225 Lincoln Way, Auburn, California on Monday, March 28, 2011 at 6:00 p.m. with Mayor Kirby presiding and City Clerk Joseph G.R. Labrie recording the minutes.

CALL TO ORDER

ROLL CALL:

Council Members Present: Kevin Hanley, J. M. Holmes, Keith Nesbitt, Bridget Powers, Bill Kirby

Council Members Absent: None

Staff Members Present: City Manager Robert Richardson, City Attorney Michael Colantuono, Fire Chief Mark D'Ambrogi, Public Works Director Bernie Schroeder, Transit Analyst Megan Siren, Administrative Services Director Andy Heath, Senior Planner Reg Murray, Assoc. Planner Lance Lowe, Police Chief Valerie Harris and Police Captain John Ruffcorn.

By **MOTION** adjourn to a Closed Session under Government Code Section 54957:6

MOTION: Holmes/ Hanley/ Approved by Voice

- (1) **CONFERENCE WITH LABOR NEGOTIATORS**
G.C. 54957.6

Agency Designated Representatives: Robert Richardson, Patrick Clark

Employee Group: All Bargaining Units

REPORT OUT OF CLOSED SESSION

No reportable action.

PLEDGE OF ALLEGIANCE

AGENDA APPROVAL

The agenda was approved as presented by consensus of the Council.

CONSENT CALENDAR

Council Member Nesbitt requested item 6 be removed from the consent calendar for further discussion.

1. **Minutes**

By **MOTION** approve City Council Minutes of February 28, 2011 and Special Session Minutes of March 13, 2011.

2. **Auburn Municipal Airport – Airfield Pavement Seal Coat and Taxiway Lighting Project – Notice of Completion**

By **RESOLUTION 11-38**, authorize the recording of a Notice of Completion for the Auburn Municipal Airport – Airfield Pavement Seal Coat and Taxiway Lighting Project (AIP 3-06-0012-10) for Valley Slurry Seal and;

By **RESOLUTION 11-39**, authorize the recording of a Notice of Completion for the Auburn Municipal Airport – Airfield Pavement Seal Coat and Taxiway Lighting Project (AIP 3-06-0012-10) for Studebaker Brown Electrical Contracting.

3. **Wastewater Treatment Plant Upgrade Project – Notice of Completion**

By **RESOLUTION 11-40**, accept the 2009 Wastewater Treatment Plant Upgrade Project as complete and authorize the Director of Public Works to execute and record a Notice of Completion for the Wastewater Treatment Plant Upgrade Project completed by GSE Construction, Inc.

4. **Assignment of Solar Power Purchase Agreement and Site Access and License Agreement from Auburn Solar, LLC to Auburn Renewables, LLC**

By **RESOLUTION 11-41**, authorize the Director of Public Works to approve the assignment and assumption of the Solar Power Purchase Agreement and Site Access and License Agreement from Auburn Solar, LLC to Auburn Renewables, LLC.

5. **Declare Surplus Fire Equipment**

By **RESOLUTION 11-42**, declare certain fire equipment as surplus and authorize the Fire Chief to dispose of such equipment accordingly.

6. **Amendment to Section 159.019 of the Auburn Municipal Code for Medical Marijuana Dispensaries**

Removed from consent calendar, see item 6a.

***** End of Consent Calendar *****

By **MOTION**, approve the consent calendar excluding item 6.

MOTION: Hanley/ Holmes/ Approved 5:0

6a. **Amendment to Section 159.019 of the Auburn Municipal Code for Medical Marijuana Dispensaries**

Council Member Nesbitt said he pulled this item from the consent calendar because he wanted the opportunity to vote separately on the issue.

Hold a second reading, by title only, of and adopt an **ORDINANCE 11-04** amending Section 159.019 of the Auburn Municipal Code for Medical Marijuana Dispensaries. The proposed amendment provides non-criminal penalties for violation of the City's prohibition of Medical Marijuana Dispensaries.

MOTION: Hanley/ Powers/ Approved 4:1 (Nesbitt voted "no")

7. **Public Comment**

Elizabeth Sands, representative of Bike Auburn, thanked the Council for their support of the Amgen Tour of California event being held in Auburn on May 17th. She also invited the Council to the Bike Auburn fundraising event April 2nd.

Council Member Nesbitt said the Bike Auburn Committee has not had to utilize the City authorized loan of \$5,000. He thanked the Council for their support and stated the committee has been successful in their fundraising efforts.

Council Member Holmes said through Gathering Inn, at least 9 homeless veterans have qualified for the VA HUD housing opportunity.

Council Member Kirby said Bike Auburn still needs more help, sponsors, and volunteers for the upcoming events.

PUBLIC HEARING

8. **A Public Hearing to Consider an Appeal of the Planning Commission's Approval of a Height Variance Extension for a 78 foot Monopine Cellular Tower located at 169 Borland Avenue in the Industrial (M-2) Zone – File # VA 09-4**

Associate Planner Lance Lowe presented this item (presentation available in staff report).

Council Member Nesbitt asked if any photo simulations were completed with the 65 foot monopine option.

Lance Lowe stated there was not much of an esthetic difference and the monopine will be placed next to existing pine trees on the property to shield it as much as possible.

OC Taylor, appellant on this item, said from the beginning of this project, the applicant, the Planning Commission and owner of the project property have been "corrupted". He said this can't be the only feasible location because other property owners on Borland had been approached to place the tower on their property. He said big corporations seem to "take precedence over the people of Auburn". He said he feels this was a "done deal" before anyone considered his opinion.

Jacob Reeves, applicant on this project introduced Tim Ray, an employee of AT&T.

Tim Ray, Executive Director of External Affairs for AT&T, outlined community outreach (including informational meeting held March 16th), coverage gaps and improved signal reception, alternative site analysis, noise concerns, soil stability and tower esthetics. He provided a petition that was signed in support of the tower.

Council Member questions to the applicant followed: (1) 2015 projected signal demand, (2) 65 foot tower options, (3) co-location with other carriers, and (4) radio frequency exposure analysis.

OC Taylor spoke of health concerns and questioned the facts and figures that AT&T provided.

City Attorney Michael Colantuono said local governments may not consider the health effects of radio frequency radiation when considering land use approvals for uses of this type. He said if the application meets the FCC standards for radio frequency that is all that can be considered.

Public Comment in opposition of the monopine project:

Gordon Ainsleigh, Danusia Szumowski of Auburn, Richard Sanborn of Auburn, Dillon Clark, Dan Sokol of Auburn, and Gary Clark.

Some topics include:

- Verizon Wireless community relations
- less intrusive solutions

- zoning changes
- alternative tower locations
- AT&T benefiting over community
- esthetics
- site selection
- soil engineering report
- inadequate notice to neighbors

Public Comment in favor of the monopine project:

Dennis Durham of Auburn, Valaine Hoffmann of Auburn, Robert Littlejohn of Auburn, Gary Mapa, Christy Sandhoff of Auburn and Linda Durham of Auburn.

Some topics include:

- need for better coverage
- esthetics of these types of towers vs. traditional towers
- enabling competitive service
- professionals relying on cell phone coverage

Council Member Powers explained the process of appealing a Planning Commission decision to everyone in attendance. She asked about correspondence in both opposition and favor of the project. She clarified that the approval is only in regards to the height variance.

Council Member comments followed regarding: (1) correspondence received in favor of the project, (2) long time Auburn resident/property owner of project site, (3) no known health effects to neighbors, (4) esthetics, (5) 7,500 users to be benefitted by the tower, (6) canyon coverage, (7) soil report, (8) 65 ft. monopine alternative, (9) alternative Borland site, (10) "small cell" technology, (11)

Public Works Director Bernie Schroeder advised the council that the sewer line is over 20 feet away and there are no concerns with being able to maintain that line with the tower as proposed. She said the fill is a long-standing and consolidated fill and the soil engineer will have to have it certified before the pouring of the foundation.

By **RESOLUTION 11-43 (Exhibit A)** deny the appeal thereby affirming the Planning Commission's approval(s) of the Borland Avenue Monopine Variance Extension (File # 09-4) as presented which includes the following actions:

1. Adoption of a Negative Declaration, prepared for the Height Variance (VA 09-4) as the appropriate level of environmental review in accordance with the California Environmental Quality Act (CEQA) and Guidelines;

2. Adoption of Findings of Fact for approval of the Height Variance as presented in the Council Report; and,

3. Approval of the Height Variance in accordance with the Conditions of Approval, as amended by the Planning Commission, presented in the Council Report.

MOTION: Holmes/ Hanley/ Approved 5:0

Council recessed for 5 minutes

Mayor Kirby postponed items 9 and 10 to the next regular City Council Meeting.

REPORTS

9. **Planning Commission Consensus Memo - Priority Planning Issues in 2011**

Postponed.

10. **Annual SACOG Blueprint Project Comparison Report – 2010 Calendar Year**

Postponed.

11. **City Council Committee Reports**

Council Member Holmes reported on the Auburn State Recreation Area. He said he met with Congressman McClintock's staff and they are continuing to work on funding to keep this area open.

Council Member Holmes reported on the progress of the historic designation of buildings in Auburn. He said by the end of the year he expects to have a few more buildings on the National Register.

Council Member Powers reported that the Placer County Economic Development Board is holding their annual meeting this Thursday to honor local businesses.

Council Member Nesbitt reported on the Bike Auburn committee. He said Amgen officials report that this committee is "further along" than many other start cities. He said there are several other events leading up to the May 17th ATOC date.

COUNCIL BUSINESS

12. Annual Housing Element Progress Report - 2010 Calendar Year

Senior Planner Reg Murray presented this item (presentation available in City Clerks office).

Council Member Nesbitt asked about the redevelopment funds committed to the Mercy Housing project.

Reg Murray said the entire project is budgeted at almost 9 million dollars, so if the redevelopment funds were no longer available, it would not have a significant impact on the project. He stressed that these funds are still crucial for the project. He said this project is not under contract as of yet.

Council Member Holmes asked about allocation of HOME funds.

Robert Richardson said programs will be brought before Council for consideration once the funding is received.

Council Member Hanley asked what is included in the contractual services for annual affordable housing monitoring at Palm Terrace Apartments.

Reg Murray said each fund provided to the project had certain requirements and this is to make sure they are meeting those requirements.

By **MOTION**, adopt the 2010 Housing Element Progress Report and direct Staff to submit the report to the State Office of Planning and Development and the State Department of Housing and Community Development.

MOTION: Nesbitt/ Holmes/ Approved 5:0

13. Annual General Plan Implementation Work Plan - 2010 Calendar Year

Senior Planner Reg Murray presented this item (presentation available in City Clerks office).

By **MOTION**, adopt the General Plan Implementation Work Plan (2010 Calendar Year) and direct Staff to submit the plan to the State Office of Planning and Research and the State Department of Housing and Community Development.

MOTION: Holmes/ Nesbitt/ Approved 5:0

ADJOURNMENT

Mayor Kirby adjourned the meeting, without objection, at 8:20 p.m. to a meeting of the Auburn Urban Development Authority.

William W. Kirby, M.D., Mayor

Joseph G. R. Labrie, City Clerk